

Appl. No. 10/667,894  
Amd. dated February 11, 2005  
Reply to Office Action of 01/13/2005

### **REMARKS**

#### **Reconsideration And Allowance Are Respectfully Requested.**

Claims 1-15 are currently pending. Claim 15 has been amended to remove a typo. No claims have been canceled. No new matter has been added. Reconsideration is respectfully requested.

Claims 1-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,676,655 to McDaniel (McDaniel). McDaniel discloses a method for treating skin disorders with multichromatic electromagnetic radiation generated by an Nd:YAG laser in the wavelength range of 1,064 nm. Multichromatic by its nature is incoherent. This particular type of laser has been used by numerous parties in treating the skin in both high power densities to ablate the skin (e.g. laser peel – Tankovich U.S. Patent 5,423,803) and in low level therapeutic power densities (e.g. Bellinger U.S. Patent 5,445,146).

Applicant's invention does not employ the same laser as that disclosed by McDaniel and many others. Applicant specifically claims monochromatic, coherent light below the level necessary to cause thermal damage to the tissue being treated, wherein the light is in the near infrared portion of the electromagnetic spectrum.

Monochromatic, coherent light is very different from multichromatic, incoherent electromagnetic radiation. Applicant uses as close to a single wavelength as can be generated.; that is, for an Nd:YAG @ 1,064 nm, the bandwidth is typically +/- .5 nm, certainly not the +/- 100 nm. as disclosed by McDaniel.

Since multichromatic is not and cannot be monochromatic, McDaniel cannot anticipate the claims of Applicant and the 102 rejection is deemed to be improper.

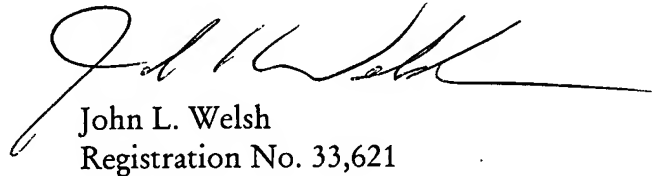
Further, Applicant claims treating for sufficient treatment time to produce clinically beneficial effects by delivering a dosage greater than 20 joules/cm<sup>2</sup>. This is more than twice that disclosed by McDaniel. McDaniel's treatment dose, or energy fluence, is not between approximately 0.1 – 100 J/cm<sup>2</sup>, as stated in the Office Action, but to quote McDaniel, the "energy fluence received by said tissue is less than about 10 J/cm<sup>2</sup>." Again, McDaniel's fails to meet all of the claimed limitations and does not anticipate nor render obvious Applicant's claimed invention.

For the foregoing reasons, the 35 U.S.C. § 102 rejection based upon McDaniel is deemed to be improper and should be withdrawn. All of the pending claims are now believed to be in condition for allowance and Applicant respectfully requests that a Notice of Allowance be issued.

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If additional information is required, or if the Office has any questions that might expedite prosecution of the above-referenced application, the Office is urged to contact the undersigned at (703) 920-1122.

Respectfully submitted,



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